

ILLINOIS ATTORNEY GENERAL LISA MADIGAN

A GUIDE FOR RETAILERS

TO THE METHAMPHETAMINE MANUFACTURING CHEMICAL RETAIL SALE CONTROL ACT (720 ILCS 647)

If you sell cold tablets containing ephedrine or pseudoephedrine, you must understand and comply with a new state law that takes effect on January 1, 2005. The law restricts the packaging, display and sale of certain products containing ephedrine or pseudoephedrine, and it requires training of store personnel before January 1, 2005. Failure to comply with this law may result in criminal prosecution.

The new law is called the Methamphetamine Chemical Retail Sale Control Act, and you can find the full text of the law in the Illinois Compiled Statutes at 720 ILCS 647 or by clicking [HERE](#). As its title suggests, the law is designed to combat the spread of methamphetamine, an illegal and dangerous drug manufactured in Illinois with ephedrine or pseudoephedrine. The law seeks “to reduce the harm that methamphetamine is inflicting on individuals, families, communities, the economy, and the environment in Illinois by making it more difficult for persons engaged in the unlawful manufacture of methamphetamine to obtain methamphetamine manufacturing chemicals.” [720 ILCS 647/5.]

This question-and-answer document is provided in an effort to help retailers and others understand the new law. This document may be updated as new issues arise. Although this document reflects our understanding of the new law, **it does not contain legal advice and may not be relied upon in any legal proceeding. Nothing in this document supersedes the actual language of the law and any interpretation given to that language by courts of law.**

REGULATED PRODUCTS

What products does the new law regulate?

The new law regulates only “targeted methamphetamine manufacturing chemicals” contained in “targeted packages.” The law defines these terms as follows:

"Targeted methamphetamine manufacturing chemical" means any medication in the form of a *tablet, capsule, caplet, or similar product* that is sold over the counter, without a prescription, and that contains either

(A) more than 15 milligrams of *ephedrine* or its salts, optical isomers, or salts of optical isomers or

(B) more than 15 milligrams of *pseudoephedrine* or its salts, optical isomers, or salts of optical isomers.

"Targeted methamphetamine manufacturing chemical" does *not* include any medication in the form of a liquid, liquid cap, gel cap, or other similar substance, or any medication dispensed by a licensed pharmacist pursuant to a valid prescription.

"**Targeted package**" simply means a package containing any amount of a targeted methamphetamine manufacturing chemical.

[720 ILCS 647/10.]

BASIC PROVISIONS

What are the basic provisions of the new law?

Among other things, the new law:

- Restricts the *packaging* of targeted methamphetamine manufacturing chemicals;
- Restricts the *sale* of targeted methamphetamine manufacturing chemicals;
- Restricts the *display* of targeted methamphetamine manufacturing chemicals; and
- Requires *training* of current store employees by January 1, 2005, the date the act takes effect.

Each of these topics is covered in the questions and answers that follow.

PACKAGING RESTRICTIONS

What restrictions does the law place on packaging of targeted methamphetamine manufacturing chemicals?

The new law provides that any targeted methamphetamine manufacturing chemical must be packaged in *blister packs*, and that any targeted package must contain *no more than 3 grams* of ephedrine, pseudoephedrine, or related chemicals. [720 ILCS 647/15(a-b).]

SALES RESTRICTIONS

What restrictions does the law place on the sale of targeted methamphetamine manufacturing chemicals?

The new law places *three major restrictions* on the sale of targeted methamphetamine manufacturing chemicals:

- (1) **Strict 2-package limit.** The law provides that a retail distributor may not distribute more than 2 *targeted packages* in a single retail transaction. [720 ILCS 647/15(c).] The law defines “single retail transaction” as a sale by a retail distributor to a specific customer at a specific time. [720 ILCS 647/10.]
- (2) **Special self-service checkout rules.** The law provides special rules for the sale of targeted packages by means of self-service checkout stations. If you plan to sell targeted packages by means of self-service checkout stations, you must understand and comply with these special rules.

Under the new law, a retail distributor may not permit the purchase of any targeted package by means of a self-service checkout station, unless the self-service checkout station is *programmed* in a manner that satisfies *all three* of the following conditions for each retail transaction:

- (1) When a particular customer seeks to purchase a *single* targeted package, the self-service checkout station may allow him or her to do so without any special prompts or actions.
- (2) If the customer seeks to purchase a *second* targeted package, the self-service checkout station shall not allow him or her to purchase the second targeted package without the assistance of a sales employee. If the customer then seeks the assistance of a sales employee, the sales employee may instruct the self-service checkout station to allow the sale of the second targeted package.
- (3) If the customer seeks to purchase a *third* targeted package, neither the self-service checkout station nor the store employee shall allow him or her to do so.

[720 ILCS 647/15(d).]

- (3) The law also provides that a retail distributor, its employees, or its agents may not distribute any targeted package or packages with knowledge that they will be used to manufacture methamphetamine or with reckless disregard of the likely use of such package or packages to manufacture methamphetamine. [720 ILCS 647/15(e).]

DISPLAY RESTRICTIONS – TWO KINDS OF PRODUCTS

What restrictions does the law place on the display of targeted methamphetamine manufacturing chemicals?

The law places significant restrictions on the display of “targeted methamphetamine manufacturing chemicals” contained in “targeted packages.” [720 ILCS 647/20 & 647/25.] To understand these restrictions, it is important to distinguish between *two different types* of targeted methamphetamine manufacturing chemicals, which are subject to *two different types* of restrictions.

First, there are “single active ingredient targeted methamphetamine manufacturing chemicals” sold in “single active ingredient targeted packages,” defined as follows:

"Single active ingredient targeted methamphetamine manufacturing chemical" means a targeted methamphetamine manufacturing chemical whose *sole active ingredient* is ephedrine or its salts, optical isomers, or salts of optical isomers; or pseudoephedrine or its salts, optical isomers, or salts of optical isomers.

"Single active ingredient targeted package" means a package containing any amount of single active ingredient targeted methamphetamine manufacturing chemical.

[720 ILCS 647/10.]

Second, there are “multiple active ingredient targeted methamphetamine manufacturing chemicals,” sold in “multiple active ingredient targeted packages,” defined as follows:

"Multiple active ingredient targeted methamphetamine manufacturing chemical" means a targeted methamphetamine manufacturing chemical that contains at least one active ingredient other than ephedrine or its salts, optical isomers, or salts of optical isomers; or pseudoephedrine or its salts, optical isomers, or salts of optical isomers.

"Multiple active ingredient targeted package" means a package containing any amount of multiple active ingredient targeted methamphetamine manufacturing chemical.

[720 ILCS 647/10.]

The restrictions that apply to these two different types of methamphetamine manufacturing chemicals are discussed in answers to the next two questions.

DISPLAY RESTRICTIONS – SINGLE-ACTIVE-INGREDIENT PRODUCTS

What restrictions does the law place on the display of “single active ingredient targeted methamphetamine manufacturing chemicals”?

The law provides that all single active ingredient targeted packages must be displayed either:

- (1) **behind a store counter**, in an area not accessible to customers, or
- (2) **in a locked case**, so that a customer wanting access to the packages must ask a store employee for assistance.

[720 ILCS 647/20.]

(Note that the definition of “single active ingredient targeted packages” is provided above.)

DISPLAY RESTRICTIONS – MULTIPLE-ACTIVE-INGREDIENT PRODUCTS – IN GENERAL

What restrictions does the law place on the display of “multiple active ingredient targeted methamphetamine manufacturing chemicals”?

The new law also regulates the sale of “multiple active ingredient targeted methamphetamine manufacturing chemicals” contained in “multiple active ingredient targeted packages,” and these regulations are a bit more detailed. Specifically, the law requires that every retail distributor treat multiple active ingredient targeted packages in *one of the following four ways*:

- (1) **Behind store counters.** The retail distributor may display the multiple active ingredient targeted packages *behind a store counter*, in an area not accessible to customers; or
- (2) **In locked cases.** The retail distributor may display the multiple active ingredient targeted packages *in a locked case* so that a customer wanting access to the packages must ask a store employee for assistance; or
- (3) **Identification and log.** The retail distributor may (i) require that any customer purchasing a targeted package produce a state-issued *photo identification* featuring a photograph that reasonably resembles the customer making the purchase, and (ii) record the name, issuing state, and official identification number of the customer into a *log* specially designed and designated for this purpose; or

- (4) **Combination of two of the options listed below.** Instead of adopting *one* of the preceding three options, the retail distributor may comply with this Section by adopting *at least two* of the following options:
- (A) **Near store counter.** The retail distributor may keep multiple active ingredient targeted packages *within 30 feet and the direct line of sight of a cash register* or store counter staffed by one or more store employees.
 - (B) **Reliable anti-theft devices.** The retail distributor may employ a *reliable anti-theft device* that uses special package tags and detection alarms designed to prevent the theft of multiple active ingredient targeted packages from the retail distributor's place of business.
 - (C) **Restricted access shelving.** The retail distributor may utilize *restricted access shelving* so that (i) only one multiple active ingredient targeted package can be removed from the shelf at a time, and (ii) there is a delay of 15 seconds or more between the time one such package is removed and the time the next such package can be removed from the shelf.
 - (D) **Constant video surveillance.** The retail distributor may keep multiple active ingredient targeted packages under *constant video surveillance* in a manner that satisfies the following conditions:
 - (i) A video camera must be positioned so that persons examining or removing the packages are visible;
 - (ii) The video camera must, at a minimum, record a one-second image every 10 seconds;
 - (iii) These images must be preserved for a minimum of 72 hours;
 - (iv) These images must be available to law enforcement authorities immediately upon request; and
 - (v) The retail distributor must post a sign in a prominent manner stating that the area is under constant video surveillance.

DISPLAY RESTRICTIONS – MULTIPLE-ACTIVE-INGREDIENT PRODUCTS – TIMING

Does the law contain special rules on the timing of actions taken to comply with restrictions listed above on the display of “multiple active ingredient targeted methamphetamine manufacturing chemicals”?

It depends. If a retail distributor decides to display multiple-active-ingredient targeted packages in a manner consistent with choice 1, choice 2, or choice 3 above, the retail distributor must take all required actions by the effective date of the new law, which is January 1, 2005. There are no special rules with respect to timing.

However, if a retail distributor chooses to display multiple-active-ingredient targeted packages in a manner consistent with choice 4 above (adopting two options from the list provided), then the law does contain special rules about the timing of the actions that are required. Specifically, the law provides that:

A retail distributor that adopts choice 4 must implement the first of the 2 chosen options by the effective date of this Act (January 1, 2005) and the second of the 2 chosen options within 180 days of the effective date of this Act (June 30, 2005).

Moreover, if the retail distributor's *first* chosen option is to employ anti-theft devices as described in section (4)(B) above, then the retailer shall ensure that special package tags are affixed to at least 50 percent of the targeted packages for each targeted stock keeping unit (SKU) by the effective date of the Act (January 1, 2005), and that special package tags are affixed to all targeted packages within 180 days of the effective date of this Act (June 30, 2005).

If the retail distributor's *second* chosen option is to employ anti-theft devices as described in section (4)(B) above, the retail distributor shall ensure that special package tags are affixed to all targeted packages within 180 days of the effective date of this Act (June 30, 2005).

[720 ILCS 647/25.]

TRAINING REQUIREMENTS

What training requirements are contained in the new law?

The new law provides that every retail distributor of any targeted methamphetamine manufacturing chemical shall train each “sales employee” on certain topics. [720 ILCS 647 §30(a).] The law defines “sales employee” as any employee who at any time:

- (a) operates a cash register at which targeted packages may be sold,
- (b) works at or behind a pharmacy counter,
- (c) stocks shelves containing targeted packages, or
- (d) trains or supervises other employees who engage in any of the preceding activities.

[720 ILCS 647/10.]

Getting more specific, the law provides that every retail distributor of any targeted methamphetamine manufacturing chemical shall train each sales employee on the topics listed on a certification form. [720 ILCS 647/30(a).] You may obtain a copy of a certification form that complies with the law by clicking [HERE](#).

You will notice that under point number 7 on the certification form, each sales employee must verify that his or her employer has shown her a list of ingredients used to make methamphetamine, with the list being provided by the Illinois Attorney General's Office. [720 ILCS 647/30(b).] You may obtain an official copy of this list by clicking [HERE](#).

The law provides that the required training may be conducted by a live trainer or by means of a computer-based training program. For each sales employee, this training shall be completed by the effective date of the Act (January 1, 2005) or within 30 days of the date that each sales employee begins working for the retail distributor, whichever of these two dates comes *later*. [720 ILCS 647/30(a).]

Immediately after training each sales employee every retail distributor shall have each sales employee read, sign, and date the certification form. [720 ILCS 647/30(b).]

Finally, the certification form may be signed with a handwritten signature or a reliable electronic signature that includes a unique identifier for each employee. The certification shall be retained by the retail distributor for each sales employee for the duration of his or her employment and for at least 30 days following the end of his or her employment. Any such form shall be made available for inspection and copying by any law enforcement officer upon request. [720 ILCS 647/30(c).]